

**Introduced by Senator Hernandez**

February 21, 2014

---

An act to amend Section 1367.49 of the Health and Safety Code, and to amend Section 10133.64 of the Insurance Code, relating to health care coverage.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1340, as introduced, Hernandez. Health care coverage: provider contracts.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law prohibits a contract by or on behalf of a plan or insurer and a licensed hospital, as defined, or any other licensed health care facility owned by a licensed hospital to provide inpatient hospital services or ambulatory care services to subscribers and enrollees of the plan or policyholders and insureds of the insurer from containing a provision that restricts the ability of the plan or insurer to furnish information to subscribers or enrollees of the plan or policyholders or insureds of the insurer concerning the cost range of procedures at the hospital or facility or the quality of services performed by the hospital or facility. Existing law makes a contractual provision inconsistent with this requirement void and unenforceable. Existing law requires a plan or insurer to provide a hospital or facility at least 20 days to review the methodology and data used before cost or quality information is provided to subscribers or enrollees of the plan or to policyholders or insureds of the insurer, as specified. Existing law also establishes

requirements applicable to information displayed on an Internet Web site pursuant to these provisions by, or on behalf of, a plan or insurer.

This bill would instead prohibit a contract between a plan or insurer and a provider or supplier, as defined, from containing a provision that restricts the ability of the plan or insurer to furnish information to consumers or purchasers, as defined, concerning the cost range of a procedure or full course of treatment or the quality of services performed by the provider or supplier. The bill would require a plan or insurer to provide a provider or supplier with at least 30 days to review the methodology and data used and would make related, conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1367.49 of the Health and Safety Code  
2 is amended to read:

3 1367.49. (a) A contract issued, amended, renewed, or delivered  
4 on or after January 1, ~~2012~~, 2015, by or on behalf of a health care  
5 service plan and a ~~licensed hospital or any other licensed health~~  
6 ~~care facility owned by a licensed hospital to provide inpatient~~  
7 ~~hospital services or ambulatory care services to subscribers and~~  
8 ~~enrollees of the plan~~ provider or supplier shall not contain any  
9 provision that restricts the ability of the health care service plan  
10 to furnish ~~information to subscribers or enrollees of the plan~~  
11 ~~concerning the cost range of procedures at the hospital or facility~~  
12 ~~or the quality of services performed by the hospital or facility.~~  
13 *consumers or purchasers information concerning any of the*  
14 *following:*

15 (1) *The cost range of a procedure or a full course of treatment,*  
16 *including, but not limited to, facility, professional, and diagnostic*  
17 *services, prescription drugs, durable medical equipment, and other*  
18 *items and services related to the treatment.*

19 (2) *The quality of services performed by the provider or supplier.*

20 (b) Any contractual provision inconsistent with this section shall  
21 be void and unenforceable.

22 (c) A health care service plan shall provide the ~~hospital or~~  
23 ~~facility~~ provider or supplier an advance opportunity of at least ~~20~~  
24 30 days to review the methodology and data developed and

1 compiled by the health care service plan, and used pursuant to  
2 subdivision (a), before cost or quality information is provided to  
3 ~~subscribers or enrollees, consumers or purchasers~~, including  
4 material revisions or ~~the addition~~ *additions* of new information.  
5 At the time the health care service plan provides a ~~hospital or~~  
6 ~~facility~~ *provider or supplier* with the opportunity to review the  
7 methodology and data, it shall also notify the ~~hospital or facility~~  
8 *provider or supplier* in writing of their opportunity to provide an  
9 Internet Web site link pursuant to subdivision (f).

10 (d) If the information proposed to be furnished to enrollees and  
11 subscribers on the quality of services performed by a ~~hospital or~~  
12 ~~facility~~ *provider or supplier* is data that the plan has developed  
13 and compiled, the plan shall utilize appropriate risk adjustment  
14 factors to account for different characteristics of the population,  
15 such as case mix, severity of patient's condition, comorbidities,  
16 outlier episodes, and other factors to account for differences in the  
17 use of health care resources among ~~hospitals and facilities~~  
18 *providers and suppliers*.

19 (e) Any Internet Web site owned or controlled by a health care  
20 service plan, or operated by another person or entity under contract  
21 with or on behalf of a health care service plan, that displays the  
22 information developed and compiled by the health care service  
23 plan as referenced by this section shall prominently post the  
24 following statement:

25  
26 “Individual ~~hospitals~~ *facilities or health care providers* may  
27 disagree with the methodology used to define the cost ranges, the  
28 cost data, or quality measures. Many factors may influence cost  
29 or quality, including, but not limited to, the cost of uninsured and  
30 charity care, the type and severity of procedures, the case mix of  
31 a hospital, special services such as trauma centers, burn units,  
32 medical and other educational programs, research, transplant  
33 services, technology, payer mix, and other factors affecting  
34 individual ~~hospitals~~ *facilities and health care providers*.”  
35

36 A health care service plan and a ~~hospital~~ *provider or supplier*  
37 shall not be precluded from mutually agreeing in writing to an  
38 alternative method of conveying this statement.

39 (f) If a ~~hospital or facility~~ *provider or supplier* chooses to  
40 provide an Internet Web site link where a response to the health

1 care service plan's posting may be found, it shall do so in a timely  
2 manner in order to satisfy the requirements of this section. If a  
3 ~~hospital or facility~~ *provider or supplier* chooses to provide a  
4 response, a plan shall post, in an easily identified manner, a  
5 prominent link to the ~~hospital's or facility's~~ *provider's or supplier's*  
6 Internet Web site where a response to the plan's posting may be  
7 found. A health care service plan and a ~~hospital~~ *provider or*  
8 *supplier* shall not be precluded from mutually agreeing in writing  
9 to an alternative method to convey a ~~hospital's~~ *provider's or*  
10 *supplier's* response.

11 (g) For the purposes of this section, ~~"licensed hospital" means~~  
12 ~~those hospitals as defined in subdivisions (a), (b), and (f) of Section~~  
13 ~~1250; the following definitions shall apply:~~

14 (1) *"Consumers" means enrollees or subscribers of the health*  
15 *care service plan or beneficiaries of a self-funded health coverage*  
16 *arrangement administered by the health care service plan or other*  
17 *persons entitled to access services through a network established*  
18 *by the health care service plan.*

19 (2) *"Provider" has the same meaning as that term is defined*  
20 *in Section 1367.50.*

21 (3) *"Purchasers" means the sponsors of a self-funded health*  
22 *coverage arrangement administered by the health care service*  
23 *plan.*

24 (4) *"Supplier" has the same meaning as that term is defined in*  
25 *Section 1367.50.*

26 (h) Section 1390 shall not apply for purposes of this section.

27 SEC. 2. Section 10133.64 of the Insurance Code is amended  
28 to read:

29 10133.64. (a) A contract issued, amended, renewed, or  
30 delivered on or after January 1, ~~2012~~, 2015, by or on behalf of a  
31 health insurer and a ~~licensed hospital or any other licensed health~~  
32 ~~care facility owned by a licensed hospital to provide inpatient~~  
33 ~~hospital services or ambulatory care services to policyholders and~~  
34 ~~insureds of the insurer~~ *provider or supplier* shall not contain any  
35 provision that restricts the ability of the health insurer to furnish  
36 information to ~~policyholders or insureds~~ concerning the cost range  
37 of procedures at the ~~hospital or facility~~ or the quality of services  
38 ~~provided by the hospital or facility; consumers or purchasers~~  
39 *information concerning any of the following:*

1 (1) *The cost range of a procedure or a full course of treatment,*  
2 *including, but not limited to, facility, professional, and diagnostic*  
3 *services, prescription drugs, durable medical equipment, and other*  
4 *items and services related to the treatment.*

5 (2) *The quality of services performed by the provider or supplier.*

6 (b) Any contractual provision inconsistent with this section shall  
7 be void and unenforceable.

8 (c) A health insurer shall provide the ~~hospital or facility~~ *provider*  
9 *or supplier* an advance opportunity of at least ~~20~~ 30 days to review  
10 the methodology and data developed and compiled by the health  
11 insurer, and used pursuant to subdivision (a), before cost or quality  
12 information is provided to ~~policyholders or insureds,~~ *consumers*  
13 *or purchasers*, including material revisions or ~~the addition~~  
14 *additions* of new information. At the time the health insurer  
15 provides a ~~hospital or facility~~ *provider or supplier* with the  
16 opportunity to review the methodology and data, it shall also notify  
17 the ~~hospital or facility~~ *provider or supplier* in writing of their  
18 opportunity to provide an Internet Web site link pursuant to  
19 subdivision (f).

20 (d) If the information proposed to be furnished to policyholders  
21 and insureds on the quality of services performed by a ~~hospital or~~  
22 *facility provider or supplier* is data that the insurer has developed  
23 and compiled, the insurer shall utilize appropriate risk adjustment  
24 factors to account for different characteristics of the population,  
25 such as case mix, severity of patient's condition, comorbidities,  
26 outlier episodes, and other factors to account for differences in the  
27 use of health care resources among ~~hospitals and facilities~~  
28 *providers and suppliers*.

29 (e) Any Internet Web site owned or controlled by a health  
30 insurer, or operated by another person or entity under contract with  
31 or on behalf of a health insurer, that displays the information  
32 developed and compiled by the health insurer as referenced by this  
33 section shall prominently post the following statement:

34  
35 “Individual ~~hospitals~~ *health care facilities or providers* may  
36 disagree with the methodology used to define the cost ranges, the  
37 cost data, or quality measures. Many factors may influence cost  
38 or quality, including, but not limited to, the cost of uninsured and  
39 charity care, the type and severity of procedures, the case mix of  
40 a ~~hospital facility~~, special services such as trauma centers, burn

1 units, medical and other educational programs, research, transplant  
2 services, technology, payer mix, and other factors affecting  
3 individual ~~hospitals~~ *health care facilities and providers.*”  
4

5 A health insurer and a ~~hospital~~ *provider or supplier* shall not be  
6 precluded from mutually agreeing in writing to an alternative  
7 method of conveying this statement.

8 (f) If a ~~hospital or facility~~ *provider or supplier* chooses to  
9 provide an Internet Web site link where a response to the health  
10 insurer’s posting may be found, it shall do so in a timely manner  
11 in order to satisfy the requirements of this section. If a ~~hospital or~~  
12 ~~facility~~ *provider or supplier* chooses to provide a response, an  
13 insurer shall post, in an easily identified manner, a prominent link  
14 to the ~~hospital’s or facility’s~~ *provider’s or supplier’s* Internet Web  
15 site where a response to the health insurer’s posting may be found.  
16 A health insurer and a ~~hospital~~ *provider or supplier* shall not be  
17 precluded from mutually agreeing in writing to an alternative  
18 method to convey a ~~hospital’s~~ *provider’s or supplier’s* response.

19 (g) For the purposes of this section, ~~“licensed hospital” means~~  
20 ~~those hospitals as defined in subdivisions (a), (b), and (f) of Section~~  
21 ~~1250 of the Health and Safety Code; the following definitions shall~~  
22 *apply:*

23 (1) *“Consumers” means policyholders or insureds of the health*  
24 *insurer or beneficiaries of a self-funded health coverage*  
25 *arrangement administered by the health insurer or other persons*  
26 *entitled to access services through a network established by the*  
27 *health insurer.*

28 (2) *“Provider” has the same meaning as that term is defined*  
29 *in Section 10117.52.*

30 (3) *“Purchasers” means the sponsors of a self-funded health*  
31 *coverage arrangement administered by the health insurer.*

32 (4) *“Supplier” has the same meaning as that term is defined in*  
33 *Section 10117.52.*